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R.T.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/185,994 11/04/98 DEVANEY

T 98-012US

EXAMINER
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IM22/0202

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MCNEIL, J	
ART UNIT	PAPER NUMBER

1744

DATE MAILED:

02/02/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/185,994**

Applicant(s)  
**Devaney et al**

Examiner  
**Jennifer McNeil**

Group Art Unit  
**1744**



☒ Responsive to communication(s) filed on May 12, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-22 is/are pending in the applicat

Of the above, claim(s) 12-17 is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-11 and 18-22 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Election/Restriction***

This application contains claims directed to the following patentably distinct species of the claimed invention: A doll-like figure display cleaning tool and a disc-shaped display screen cleaning tool.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Robert Pajak on January 13, 1999 a provisional election was made with traverse to prosecute the invention of the doll-like figure, claims 1-11 and 18-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

### *Claim Objections*

Claims 4, 7, 8, 10, 11, 19, 20, and 22 are objected to under 37 CFR 1.75 as being a substantial duplicate of other claims. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Claims 7 and 8 are the same. Claims 10 and 20 are the

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same. Claims 4, 10, 11, and 22 contain the same information as disclosed in the claims to which they are dependant.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 4, 6-10, and 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims refer to a doll-like figure. The use of this terminology renders the claim indefinite. The claims also refer to chamois like material. This is also considered indefinite language. Claims 3, 9, and 21 refer to the material used to make the device as being produced by Hutchings and Harding LDT. The material source of the device is not given patentable weight and renders the claims indefinite as it is similar to a trade name in that it does not fully describe the material.

Claim 11 recites the limitation "said one or more strips of fabric" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, rejected under 35 U.S.C. 102(b) as being anticipated by McMahon.

McMahon teaches a toy made of chamois in which a strip of material is folded and is shaped into the form of a mouse. The fabric itself is used as a stuffing to make the device three dimensional and is sealed by a knot. Regarding claims 2 and 3, no criterion has been established as to a fabric being optical grade and is given no patentable weight, and the source of the material is also given no weight for reasons stated above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5-11, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMahon in view of Merrion. McMahon teaches a chamois material shaped into a mouse figure as mentioned above but does not teach the use of multiple pieces of fabric or alternate fastening means. Merrion teaches a lens wiping device made of chamois-like material which is lint free and non-abrasive. Merrion used multiple pieces of fabric sewn together. It would have been obvious to one of ordinary skill in the art at the time of the invention to use multiple pieces of fabric as

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taught by Merrion in the apparatus taught by McMahon for added dimension and maneuverability. It would have been obvious to sew the fabric together as taught by Merrion as it is a well known means for fastening.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Patents to Smith, Baczkowski, Juarez, Wright, Forbis, Werbe, Johnson, and Brown teach cleaning devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer McNeil whose telephone number is (703) 305-0553. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Warden, can be reached at (703) 308-2920.

When filing a fax in Group 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of this application. This will expedite processing of your papers. The fax number for this Group are (703) 305-3599 for "Official" faxes and (703) 305-7719 for "Unofficial" faxes.

Communications via the Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [robert.warden@uspto.gov]. All Internet e-mail communications will be made of


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record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0661.



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